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9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF CALIFORNIA
11
12

13 UNITED STATES OF AMERICA,) No. Cr. S. 92-0377-GEB
14)
Plaintiff,)
15 v.) UNOPPOSED PETITION TO TERMINATE
SUPERVISED RELEASE UNDER 18 U.S.C.
16 JERRY DEAN DAVIS,) § 3583(e)(1); [proposed] ORDER
17)
Defendant.)
18) Judge: Garland E. Burrell, Jr.
19)
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21 I. INTRODUCTION

22 Defendant, JERRY DEAN DAVIS, hereby moves the Court to terminate
23 his term of supervised release pursuant to 18 U.S.C. § 3583(e)(1). The
24 ten-year term of supervised release began on January 2, 2009. Mr.
25 Davis has already completed almost five years of that term.

26 Mr. Davis is being supervised in the Eastern District of
27 California where he lives and works. Mr. Davis was referred to the
28 Federal Defender's Office by the U.S. Probation Office as a potential

1 candidate for early termination. Prior to filing this petition,
2 defense counsel provided it to the supervising probation officer and
3 the government. The officer has indicated that Mr. Davis is on her
4 low-intensity caseload, is maintaining employment, and staying drug
5 free. Both the government and the probation office concur with this
6 petition.

7 II. APPLICABLE LAW

8 Title 18, section 3583(e)(1) of the United States Code authorizes
9 the Court to terminate a defendant's term of supervised release at any
10 time after the expiration of one year of supervision if the Court is
11 "satisfied that such action is warranted by the conduct of the
12 defendant released and the interest of justice." No hearing is
13 requested for this unopposed petition.

14 Section 3583(e) directs the Court to consider the purposes of
15 sentencing set forth in 18 U.S.C. § 3553(a)(1), (a)(2)(B), (a)(2)(C),
16 (a)(2)(D), (a)(4), (a)(5), (a)(6) and (a)(7) in deciding whether to
17 terminate a term of supervised release. The Judicial Conference has
18 identified the following criteria to assess eligibility for early
19 termination:

20 Officers should consider the suitability of early termination
21 for offenders *as soon as they are statutorily eligible*. The
22 general criteria for assessing whether a statutorily eligible
offender should be recommended to the court as an appropriate
candidate for early termination are as follows:

- 23 1. stable community reintegration (e.g., residence,
24 family, employment);
- 25 2. progressive strides toward supervision objectives
and in compliance with all conditions of supervision;
- 26 3. no aggravated role in the offense of conviction,
27 particularly large drug or fraud offenses;
- 28 4. no history of violence (e.g., sexually assaultive,

1 predatory behavior, or domestic violence);

2 5. no recent arrests or convictions (including
3 unresolved pending charges), or ongoing,
uninterrupted patterns of criminal conduct;

4 6. no recent evidence of alcohol or drug abuse;

5 7. no recent psychiatric episodes;

6 8. no identifiable risk to the safety of any identifiable
7 victim; and

8 9. no identifiable risk to public safety based on the Risk
Prediction Index (RPI).

9 Guide to Judiciary Policy, Vol. 8E, Ch. 3 § 380.10(b), "Early
10 Termination" (Monograph 109) (rev'd 2010) (emphasis added).

11 Pursuant to the policy, "there is a presumption in favor of
12 recommending early termination" for supervisees after the first 18
13 months if they are not "career violent and/or drug offenders, sex
14 offenders, or terrorists," if they "present no identified risk to the
15 public or victims," and if they are "free from any moderate or high
16 severity violations." Id., § 380.10(g).

17 Further, on February 16, 2012, the Honorable Robert Holmes Bell,
18 Chair of the Committee on Criminal Law of the Judicial Conference,
19 issued a memorandum to all United States District Court Judges
20 *encouraging* them to grant early termination of supervised release in
21 appropriate cases as an effort to reduce expenditures in the probation
22 and pretrial services programs. (Exh. A.) Terminating "appropriate
23 cases before they reach their full term saves resources and allows
24 officers to focus on offenders who continue to pose the greatest risk
25 of recidivism." Judge Bell's memorandum notes that supervision costs
26 approximately \$3,938 per year per case. Analysis by the Administrative
27 Office of the Courts indicates that offenders who received early
28 termination were "arrested less often, for less serious charges, and

1 were sentenced to terms of imprisonment less often." Accordingly,
2 "[f]rom a policy standpoint, it appears that the above criteria, when
3 properly applied, *does not jeopardize public safety.*" Id. (emphasis
4 added)

5 III. MR. DAVIS SATISFIES ALL THE CRITERIA FOR EARLY TERMINATION

6 Mr. Davis satisfies all the factors set forth for early
7 termination. He has completed all the terms of supervision and has no
8 outstanding monetary penalties. He has been sober for over 24 years,
9 completed the Bureau of Prisons Residential Drug Abuse Program (RDAP),
10 and passed all drug tests during his five-years on supervised release.
11 He was also released from mandated drug tests because he tested clean
12 for two years.

13 Mr. Davis was convicted of possessing cocaine and cocaine base
14 with intent to distribute, for which he received a 20-year term of
15 custody and a 10-year term of supervised release. His sentence was
16 driven in part by the amount of crack cocaine he possessed. Mr. Davis
17 was arrested on June 18, 1992 and he was released from the Bureau of
18 Prisons on January 2, 2009, serving sixteen and a half years in
19 custody. He received good-time credit for his commendable behavior in
20 prison and for successfully completing the Bureau of Prisons
21 Residential Drug Abuse Program.

22 Mr. Davis was sentenced to the 20-year term of custody prior to
23 the enactment of the Fair Sentencing Act of 2010, where Congress
24 established higher thresholds to trigger mandatory minimum and maximum
25 penalties for crack cocaine offenses and changed the sentencing ratio
26 of crack cocaine and powder cocaine from 100:1 to 18:1. Had the Act
27 applied to Mr. Davis' case, he likely would have served 11 years of
28

1 prison and 8 years of supervised release, instead of serving
2 approximately 16 years in prison and receiving 10 years of supervised
3 release.

4 While incarcerated, Mr. Davis took courses and received college
5 credits from Taft College. Mr. Davis was released from prison in 2008
6 to a halfway house in the Eastern District. He stayed there until
7 January 2, 2009, his first date on supervised release.

8 During his term of supervision, Mr. Davis has been making great
9 strides. Immediately upon leaving the halfway house, Mr. Davis was
10 employed by Two Men And A Truck. He has maintained his job there since
11 2008 with nothing but praise from his employer. His employer notes
12 that Mr. Davis would have the opportunity to move up in his company if
13 the travel restriction of his supervised release were lifted.

14 [Mr. Davis] has been an outstanding model employee since hire. Due
15 to Mr. Davis' legal obligations and restrictions, both he and our
16 company are limited in both employment opportunities and
17 utilizations of Mr. Davis for our company. Should Mr. Davis be
18 released from his legal restrictions, Jerry would be allowed to
19 drive on any of numerous commission based, and higher paying, long
haul jobs out of the area. This release would benefit the company
and Mr. Davis equally. Jerry would have the opportunity to earn
higher wages and income, and the company would benefit by
utilizing his experience to handle larger responsibility moves out
of the local service area.

20 (Letter from Supervisor James D. Coombs, Exh. B.)

21 Another one of Mr. Davis' supervisors concurs that Mr. Davis would
22 have much more opportunities with the company if his travel
23 restrictions were lifted. Alan Sloat, the Assistant Operations Manager
24 writes:

25 Jerry would have more opportunities in regards to hours if he was
26 eligible for interstate/ intrastate long haul moves. Unfortunately
27 his travel restrictions disqualify him from those potential moves
and have him limited to working locally only.

28 (Exh. C.)

1 In addition to maintaining stable employment, Mr. Davis has also
2 been a loyal and faithful family member. He has lived with his sister,
3 Remell Davis, for the last five years and they both share
4 responsibilities in taking care of their elderly parents. Since their
5 parents are elderly, they often require assistance with everyday tasks,
6 such as household chores, running errands and even bathing. Remell
7 Davis says the following about her brother:

8 ...it's a pleasure having my brother home with the family. Jerry
9 is very helpful and responsible, I haven't any problems, [he] helps
10 me out with our parents who are now up in age and need of
11 assistants, such as going to the doctor's or going to the store
12 when they need something. Jerry helps our father with his bath,
shaving and any other manly duties he may need help with. Jerry
gets up and goes to work every morning and takes care of his
responsibilities we are so happy to have him home.

13 (Letter from Remell Davis, Exh. D.)

14 Mr. Davis has also reunited with his son who currently lives in
15 Alabama. Mr. Davis has been sending him money from his job in order to
16 support him while he is attending college. Mr. Davis has been working
17 extremely hard to be a good father, sister and son to his family since
18 the beginning of his supervised release and he says that he "plans on
19 keeping it this way." He has proven to be a dependable source of
20 financial and emotional support to his family members. He has proven
21 to be a dependable and hardworking employee to his work supervisors.
22 Mr. Davis' dedication to his family and to his career demonstrates his
23 commitment to continue his reintegration into society.

24 Terminating Mr. Davis' supervised release would enable him to
25 better support his family financially. He would also be given
26 additional work responsibilities in his career which would further his
27 personal and career growth. Terminating his supervised release would
28 also benefit his employers and the patrons to whom they provide

1 services. At this point, his supervised release is inhibiting his
2 growth in his career and it is preventing him from providing more
3 financial support to his family members.

4 The Court is often called upon to impose serious consequences for
5 defendants who violate supervised release. Jerry Dean Davis has
6 completed every condition asked of him and has far gone beyond the
7 requirements of his supervision. He has fully reintegrated into
8 society and is a valued worker, housemate, family member, and citizen.
9 He has achieved stable community reintegration in terms of housing,
10 family, and employment. He is in full compliance with all terms of
11 supervision. He had no aggravated role in the offense, has no history
12 of violence, and he is not using controlled substances. He has no
13 psychiatric issues. He is an ideal candidate for early termination of
14 supervised release based on every factor the Court must consider.

15 Given Mr. Davis's commendable reentry into the community and
16 performance on supervised release, he respectfully requests that the
17 Court order that his term of supervision be terminated under 18 U.S.C.
18 § 3583(e).

19
20 Respectfully submitted,

21 HEATHER WILLIAMS
22 Federal Defender

23 DATED: September 25, 2013

/s/Rachelle Barbour

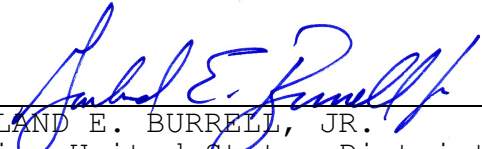
24 _____
25 RACHELLE BARBOUR
26 Research and Writing Attorney
27 Attorney for Defendant
28 JERRY DEAN DAVIS

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[proposed] **O R D E R**

Pursuant to 18 U.S.C. § 3583(e)(1), the Court hereby TERMINATES the term of supervised release in this case and discharges Mr. Davis for the reasons set forth above.

Dated: September 30, 2013



GARLAND E. BURRELL, JR.
Senior United States District Judge